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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,230	06/12/2001	Kenneth C. Budka	2925-0551P	2080
30594 7590 10/15/2007 HARNESSE, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195				
			EXAMINER PICH, PONNOREAY	
			ART UNIT 2135	PAPER NUMBER
			MAIL DATE 10/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary

Application No.

09/878,230

Applicant(s)

BUDKA ET AL.

Examiner

Ponnoreay Pich

Art Unit

2135

All participants (applicant, applicant's representative, PTO personnel):

(1) Ponnoreay Pich.

(3) _____.

(2) Linus Park.

(4) _____.

Date of Interview: 02 October 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: n/a.

Identification of prior art discussed: Jacobi and Inoue.

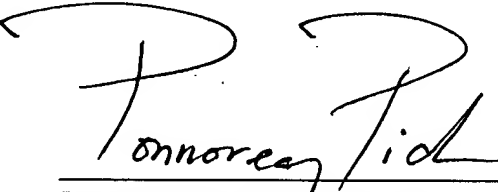
Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Park called to discuss some proposed amendment which he thought might eliminate the need to file a declaration under 37 CFR 132 as previously discussed to overcome the rejections under 35 USC 103 over Jacobi and Inoue. Mr. Park's position was that by amending the language of the claim to be directed towards only a wireless telephony system, Inoue could not be used in combination with Jacobi. The examiner disagreed. The examiner's position was that Inoue's teachings of a failure counter could be used in more than just the type of wireless computer system discussed in Inoue and that it could also have been used in a wireless telephony system. The examiner did not believe that the concept of a failure counter is so intrinsically tied to any type of network that the concept could not be adapted to work in a different type of network or system. The examiner believes that a person of ordinary skill in the art at the time applicant's invention was made would have possessed the common sense and technical skill to be able to adapt a failure counter as taught by Inoue within Jacobi's cell phone network. Mr. Park also asked what sort of evidence they needed to include with the declaration. The examiner stated that the background of the person(s) making the declaration needed to be included to determine if they could be considered one of ordinary skill with respect to the current application and an explanation of why they do not think it would have been obvious or possible to incorporate Inoue's teachings especially of the failure counter within a wireless telephony system such as the one disclosed by Jacobi back during the time the application was made. If applicant had any evidence to support the position of the person(s) making the declaration, it could only help the applicant's position to include such evidence in the declaration.